

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
FLORENCE DIVISION

James S. Strickland,)	C/A No.: 4:06-cv-1344-GRA-TER
)	
Plaintiff,)	ORDER
)	(Written Opinion)
v.)	
)	
Dr. Alewine; Dr. Grecco; Dr. Kirby;)	
Dr. Samson; Nurse Annette Brown; and)	
South Carolina Department of)	
Corrections, (SCDC),)	
)	
Defendants.)	
)	

This matter comes before the Court for review of the magistrate's Report and Recommendation made in accordance with 28 U.S.C. § 636(b)(1)(B) and Local Rule 73.02(B)(2)(d), D.S.C., and filed on January 14, 2008. Plaintiff filed this action on May 3, 2006, alleging civil rights violations pursuant to 42 U.S.C. § 1983. The magistrate granted Plaintiff's motion to amend his complaint to include defendants Donald Sampson, M.D., and Nurse Annette Brown, and Plaintiff filed an amended complaint on December 6, 2006. On August 22, 2007, Defendants filed a motion for summary judgment. On August 28, 2007, the magistrate issued an Order pursuant to *Roseboro v. Garrison*, 528 F.2d 309 (4th Cir. 1975), advising Plaintiff of the summary judgment procedure and the consequences of a failure to respond. Plaintiff filed a response in opposition to Defendant's motion for summary judgment on September 17, 2007. On October 11, 2007, Plaintiff filed a motion to dismiss Dr.

Kirby as a defendant. Defendants filed a response consenting to the plaintiff's motion to dismiss Michael Kirby as a defendant.

The magistrate now recommends granting Defendants' Motion for Summary Judgment and dismissing the complaint. He also recommends that Plaintiff's Motion to Dismiss Dr. Kirby as a defendant be granted. For the reasons stated herein, the recommendation of the magistrate is adopted, and the case is DISMISSED.

Plaintiff brings this claim *pro se*. This Court is required to construe *pro se* pleadings liberally. Such pleadings are held to a less stringent standard than those drafted by attorneys. *Gordon v. Leeke*, 574 F.2d 1147, 1151 (4th Cir. 1978). This Court is charged with liberally construing a pleading filed by a *pro se* litigant to allow for the development of a potentially meritorious claim. *Boag v. MacDougall*, 454 U.S. 364, 365 (1982).

The magistrate makes only a recommendation to this Court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with this Court. *Mathews v. Weber*, 423 U.S. 261, 270-71 (1976). This Court is charged with making a *de novo* determination of those portions of the Report and Recommendation to which specific objection is made, and this Court may "accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate." 28 U.S.C. § 636(b)(1). This Court may also "receive further evidence or recommit the matter to the magistrate with instructions." *Id.* In the absence of specific objections to the Report and Recommendation, this Court is

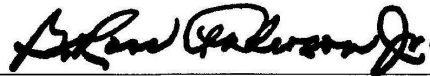
not required to give any explanation for adopting the recommendation. *Camby v. Davis*, 718 F.2d 198 (4th. Cir. 1983). Plaintiff filed no objections.

After a review of the record, this Court finds that the magistrate's Report and Recommendation accurately summarizes this case and the applicable law. Accordingly, the Report and Recommendation is accepted and adopted in its entirety.

IT IS THEREFORE ORDERED that Defendants' Motion for Summary Judgment be GRANTED and this case be DISMISSED.

IT IS FURTHER ORDERED that Plaintiff's Motion to Dismiss Dr. Kirby as a defendant be GRANTED and that all other outstanding motions be deemed MOOT.

IT IS SO ORDERED.



G. ROSS ANDERSON, JR.
UNITED STATES DISTRICT JUDGE

Anderson, South Carolina

February 7, 2008

NOTICE OF RIGHT TO APPEAL

Plaintiff is hereby notified that he has the right to appeal this Order within thirty (30) days from the date of the entry of this Order, pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure. Failure to meet this deadline, as modified within Rule 4, will waive the right to appeal.